

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1858.—Ordered to be printed.

Mr. DURKEE made the following

REPORT.

[To accompany Bill S. 177.]

*The Committee on Private Land Claims, to whom was referred the petition of William Marvin, praying confirmation of his title to certain lands in Florida, claimed under a Spanish grant, have had the same under consideration, and adopt and submit the following report heretofore made by this committee :*

The petitioner claims 7,000 acres of land on the east side of the river St. John, between the places known as "Dunn's Lake" and "Horse Landing," and to include a place known as "Buffalo Bluff," in the State of Florida, by virtue of a concession, dated December 20, 1815, from "Estrada," then governor of Florida, to one Bernardo Segui.

It appears that said Bernardo Segui, then a subject of his Catholic Majesty, on the 19th day of December, 1815, petitioned the governor of Florida for a grant of lands; which petition is as follows: (see Am. State papers, D. Green's ed., vol. 4, p. 757:)

*"Don Bernardo Segui, notary public pro tem. for the town of Fernandina, resident in this city, respectfully sheweth:*

*"That, with the permission of your excellency, he has come to this capital solely with the object of making known to you, as he has already done verbally, the deplorable situation and condition of that population, originating from a want of commerce, in consequence of the declaration of peace between Great Britain and the United States. In May of the present year, your memorialist was appointed by your lordship's predecessor, Don Sebastian Kindelan, to the office which he now holds in said town, and as he thought to have obtained by it the greatest advantages, he abandoned in this city, as is well known, the business which he had for the support of himself and family, resulting thereby his leaving a certainty for an uncertainty, and consequently at the present without any means whatever.*

"The town of Fernandino, as he has already stated, is in such a deplorable situation on account of there not being any trade whatever, that your memorialist passes entire weeks without obtaining a half real in fees. If, therefore, a fact so positive, added thereto the limited services he has performed, merit the consideration of your lordship, he hopes to obtain from your well-known justice, and in virtue of the superior orders of his Majesty, (whom God preserve,) in which he recommends that lands be granted gratis to Spanish subjects, that you be pleased, therefore, grant him in absolute property the quantity of seven thousand acres of land on the east side of the river St. Johns, between the place called Dunn's Lake and that known as Horse Landing, including in said tract of lands the place called Buffalo Bluff, which latterly given up to the government by the house of Juan Forbes and company, in exchange for other lands. Therefore, your memorialist prays that your lordship may be pleased to grant him the said quantity of seven thousand acres of land in the place mentioned, not doubting that he will obtain them from the known justice of your lordship.

"BERNARDO SEGUI.

"ST. AUGUSTINE, FLORIDA, *December 19, 1815.*"

Upon which petition, Governor Estrada on the next day, to wit: December 20, 1815, made the following decree:

"The renunciation made by Don Juan Forbes & Co. of the lands mentioned by the interested in this memorial being certain, and in virtue of the reasons which he indicates to this government, let there be granted to him, in absolute dominion, the seven thousand acres of land which he petitions for, under the boundaries which he points out without injury to a third person, despatching for his security a certified copy of this concession, which will serve him in every event for a title in form.

"ESTRADA."

On the 10th day of December, 1818, Don Andrew Burgevin, private surveyor in the city of St. Augustine, East Florida, issued the following certificate of survey:

"I certify that, in virtue of the permission of this government, I have measured and marked the boundaries of a tract containing seven thousand acres, more or less, situated on the east of the river St. Johns, at the place known as Buffalo Bluff, and running south, bounding the waters of said river, as is more fully seen by the annexed plat, which piece of land belongs to Don Bernardo Segui, by a concession made to him by this government the 19th of December, 1815."

At the date of the cession of Florida by the Spanish government to the United States, the said Bernardo Segui was in the full possession and enjoyment of the lands in question, under, and by virtue of, the aforesaid grant.

Under the act of Congress entitled "An act for ascertaining claims and titles to land within the Territory of Florida," approved May 8, 1822, the said Bernardo Segui filed his claim before the commissioners appointed in conformity thereto, who, in their report to the

Secretary of the Treasury, dated January 20, 1824, (Am. State Papers, Pub. Lands, D. Green's ed., vol. 3, p. 644,) make use of the following language in reference to said claim:

"The claimant in this case produced in evidence a memorial and decree of absolute property from the governor, dated 20th December, 1815, for seven thousand acres of land, a plat and certificate of survey, by which it appears, that in virtue of the decrees of the Cortes of 22d January, 1813, and the royal order of 1815, there was granted to the claimant, in absolute property, the seven thousand acres of land, at the place set out in the memorial and certificate of survey; and as we conceive that, by the decrees and order aforesaid, the quantity to be apportioned according to the merit of the applicant and the number of his family was left alone to the discretion of the governor for the time being, that title of the claimant would have been confirmed to him under the Spanish government, we recommend the case to Congress for their confirmation."

In the year 1825, one John B. Strong became the owner of said land, by the foreclosure of a mortgage, executed to him by the said Fernando Segui. Strong died shortly after he acquired title, leaving as his heirs-at-law, five children, all minors, the youngest of whom did not arrive at full age until 1835. The widow died shortly after the decease of her husband, and there was no guardian for the children appointed, who were removed to the States of New York and Connecticut immediately after the death of their mother.

By the act of Congress, approved May 23, 1828, all claims to land in the Territory of Florida, embraced by the treaty, which shall not have been decided and finally settled by the provisions of the said act, containing a greater quantity of land than the commissioners were authorized to decide, and above the amount confirmed by the said act, were to be referred, within one year from the passage thereof, or be forever barred, to the judge of the superior court of the said Territory, for adjudication by said court. By the act approved May 26, 1830, "all the remaining claims which have been presented according to law and not finally acted upon, shall be adjudicated and finally settled upon the same conditions, restrictions, and limitations, in every respect, as are prescribed by the act approved May 23, 1828."

Under neither of the aforesaid acts was a petition filed by the said minor children and heirs-at-law of the said John B. Strong before the said superior court; which fact your committee do not think ought to be urged against minor heirs, without a guardian, living at a remote distance from these lands.

In the year 1835 these heirs-at-law sold and conveyed the said tract of land to William Marvin, the petitioner, who, under the impression that the provisions of the act of May 26, 1830, were still open to him, in the month of June, 1843, filed his petition in the superior court of the district of east Florida, and obtained a decree in his favor for the lands in question; but, on appeal to the Supreme Court of the United States, the said decree was reversed, for want of jurisdiction in the court below; so that the petitioner has no remedy or relief other than in appeal to the justice of Congress.

The committee find that at the first and second sessions of the 29th

Congress the Senate Committee on Private Land Claims reported favorably upon the said claim, and recommended the same for confirmation.

Without discussing the legal effect of the 8th article of the treaty of 1819, the committee are satisfied, from the decision of the superior court of Florida, in 1843, that this claim would have been adjudicated in favor of Segui, or his legal representatives, had the same been presented to that court within the time limited by the said acts of May 23, 1828, and May 26, 1830.

Your committee feeling that justice demands of Congress the confirmation of this claim to William Marvin, as the legal representative of the said Bernardo Segui, they have directed me to report the accompanying bill and recommend its passage.